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AUS920010459US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Newton James Smith, Jr., et al.

Serial No.: 09/942,757

Filed: August 30, 2001

Title: Customized Tours Using Hand

Held Devices

Group Art Unit: 2155

Examiner:

Bruckart, Benjamin R.

Atty Docket No.: AUS920010459US1

CUSTOMER No.: 34533

Mail Stop: Amendment Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-8300 or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this

Catherine Berglund

PETITION TO RESET THE TIME PERIOD FOR RESPONSE TO OFFICE ACTION OF JANUARY 6, 2005 AND RESPONSE TO OFFICE ACTION DATED JANUARY 6, 2005

Dear Sir:

During a routine status check on Wednesday, October 19, 2005, using the USPTO Patent Application Information Retrieval ('PAIR') system, Applicants discovered that an Office Action dated January 6, 2005, in the above referenced case was issued. That Office Action was never received by Applicants or their attorneys of record. It appears that the Office Action was sent to Sidney L. Weatherford, 1106 Rainbow Dr. Richardson, TX 75081 on January 6, 2005, as this is the correspondence information listed on the Office Action.

Upon discovering that an office action was issued, Applicants immediately contacted Examiner Bruckart by telephone and subsequently had two telephone conferences.

AUS920010459US1

Examiner Bruckart stated that Sidney L. Weatherford appeared to have been incorrectly listed as the attorney of record for correspondence for this case through a clerical error made by the United States Patent Office. No change of address to Sidney L. Weatherford, however, is included in the PAIR Image File Wrapper for this case.

Applicants demonstrate that the Declaration and Power of Attorney designated address for correspondence in this case to The Biggers Law Firm, 2608 Mason Street, Houston Texas, 77006 by including in this Response copies of the original Declaration and Power of Attorney (Appendix A) in this case. Through association of the customer number of the attorneys of record (Appendix B), Customer No. 34533, the correspondence address in this case is:

Biggers & Ohanian, LLP P.O. Box 1469 Austin, Texas 78767-1469

The PAIR system also includes in this case file an incorrect assignment from the Wisconsin Alumni Research Foundation to the Navy, Secretary of the United States of America. Neither entity has any relation with this case and the assignment's inclusion is in error.

Applicants never received and had no knowledge of the mailing of the Office Action dated January 6, 2005, until the discovery of an Office Action in PAIR during a routine status check of Wednesday, October 19, 2005. Applicants respectfully request the time period for response to this Office Action be reset and the address for correspondence in this case be corrected. In an effort to move the case forward, Applicants submit herewith a Response to the Office Action of January 6, 2005.

APPENDIX A

IBM Docket Number: AUS920010459US1

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

the specification of which (check one)

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

CUSTOMIZED TOURS USING HAND HELD DEVICES

<u>_x</u> _	is attached hereto.
	was filed on as Application Serial No. and was amended on (if applicable)
I hereb	y state that I have reviewed and understand the contents of the above-in

dentified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, -1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, -119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the NONE application on which priority is claimed:

I hereby claim the benefit under Title 35, United States Code, -120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, -112, I acknowledge the duty to disclose information material to the patentability of this application as defined in Title 37, Code of Federal Regulations, -1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application: NONE

IBM Docket Number: AUS920010459US1

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

John W. Henderson, Jr., Reg. No. 26,907; James H. Barksdale, Jr., Reg. No. 24,091; Thomas E. Tyson, Reg. No. 28,543; Robert M. Carwell, Reg. No. 28,499; Jeffrey S. LaBaw, Reg. No. 31,633; Douglas H. Lefeve, Reg. No. 26,193; Casimer K. Salys, Reg. No. 28,900; David A. Mims, Jr., Reg. No. 32,708; Mark E. McBurney, Reg. No. 33,114; Anthony V. England, Reg. No. 35,129; Volel Emile, Reg. No. 39,969; Leslie A. Van Leeuwen, Reg. No. 42,196; Christopher A. Hughes, Reg. No. 26,914; Edward A. Pennington, Reg. No. 32,588; John E. Hoel, Reg. No. 26,279; Joseph C. Redmond, Jr., Reg. No. 18,753; and Marilyn S. Dawkins, Reg. No. 31,140, Cynthia S. Byrd, Reg. No. 39,365; and John R. Biggers, Reg. No. 44,537.

Send correspondence to The Biggers Law Firm, 2608 Mason Street, Houston, Texas 77006 and direct all telephone calls to John Biggers at (713) 630-6944.

FULL NAME OF FIRST INVENTOR:

Newton James Smith, Jr.

INVENTORS SIGNATURE:

RESIDENCE:

11002 Bitteroot Circle

Austin, Texas 78726 United States of America

CITIZENSHIP:

United States

POST OFFICE ADDRESS: 11002 Bitteroot Circle

Austin, Texas 78726 United States of America Herman Rodriguez

IBM Docket Number: AUS920010459US1

FULL NAME OF SECOND INVENTOR:

 ρ .

INVENTORS SIGNATURE. 48

RESIDENCE: 4201 Love Bird Lane
Austin, Texas 78730

United States of America

CITIZENSHIP: United States

POST OFFICE ADDRESS: 4201 Love Bird Lane

Austin, Texas 78730 United States of America

FULL NAME OF THIRD INVENTOR:

Gary Genc Allran

INVENTORS SIGNATURE: ______ DATE: _____, 2001.

RESIDENCE: 706 Ellynn Drive

Cary, North Carolina 27511 United States of America

CITIZENSHIP: United States

POST OFFICE ADDRESS: 706 Ellynn Drive

Cary, North Carolina 27511 United States of America

IBM Docket Number: AUS920010459US1

FULL NAME OF FOURTH INVENTOR:

Clifford Jay Spinac

RESIDENCE:

13428 Anarosa Loop

Austin, Texas 78727-1400

United States of America

CITIZENSHIP:

United States

POST OFFICE ADDRESS: 13428 Anarosa Loop

Austin, Texas 78727-1400 United States of America

FROM : GARY ALLRAN

FAX NO. : 413-643-4673

Aug. 29 2001 03:33PM P7

IBM Docket Number: AUS920010459US1

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

CUSTOMIZED TOURS USING HAND HELD DEVICES

the spec	offication of which (check one)
<u>X</u>	is attached hereto.
	was filed on as Application Serial No and was amended on (if applicable)
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I hereby claim the benefit under Title 35. United States Code, -120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, -112, I acknowledge the duty to disclose information material to the patentability of this application as defined in Title 37. Code of Federal Regulations, -1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

5124729887

FROM : GARY ALLRAN

FAX ND. : 413-643-4673

Aug., 29 2001 03:32PM P3

IBM Docket Number: AUS920010459US1

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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FULL NAME OF FIRST INVENTOR:

Newton James Smith, Jr.		•	
INVENTORS SIGNATURE		DATE:	, 2001
RESIDENCE:	11002 Bitteroot Circle Austin, Texas 78726 United States of America		
CITIZENSHIP:	United States		
POST OFFICE ADDRESS:	11002 Bitteroot Circle Austin, Texas 78726		

United States of America

11/01/2005 15:47

5124729887

BIGGERS & OHANIAN

PAGE 47/63

FROM : GARY ALLRAN

FAX NO. : 413-643-4673

Aug. 29 2001 03:32PM P4

IBM Docket Number: AUS920010459US1

FULL NAME OF SECOND INVENTOR:

Herman Rodriguez

_____, 2001. DATE: _ INVENTORS SIGNATURE:

RESIDENCE:

4201 Love Bird Lane

Austin, Texas 78730 United States of America

CITIZENSHIP:

United States

POST OFFICE ADDRESS: 4201 Love Bird Lane

Austin, Texas 78730 United States of America

FULL NAME OF THIRD INVENTOR:

Gary Gene Allran

RESIDENCE:

706 Ellynn Drive

Cary, North Carolina 27511 United States of America

CITIZENSIUP:

United States

POST OFFICE ADDRESS: 706 Ellynn Drive

Cary, North Carolina 27511 United States of America

11/01/2005 15:47

5124729887

BIGGERS & OHANIAN

PAGE 48/63

FROM : GARY ALLRAN

FAX NO. : 413-643-4673

Aug. 29 2001 03:32FM P5

IBM Docket Number: AUS920010459US1

FULL NAME OF FOURTH INVENTOR:

Clifford Jay Spinac

INVENTORS SIGNATURE: _______ DATE: ______, 2001.

RESIDENCE:

13428 Anarosa Loop

Austin, Texas 78727-1400 United States of America

CITIZENSHIP:

United States

POST OFFICE ADDRESS: 13428 Anarosa Loop

Austin, Texas 78727-1400

United States of America

APPENDIX B

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UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademarch Office Adhere COMMISSIONER FOR PATENTS TO Box 1459 Alexandra, United 27313-1450

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ADDRESS:

INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469

FAX:

512-472-9887

PHONE:

512-472-9881

E-MAIL:

JOHN@BIGGERSLAW.COM

Date Mailed: 06/24/2005

NOTICE OF CUSTOMER NUMBER RECORD CHANGE

The request to change the information associated with the above-identified Customer Number has been accepted by the Commissioner of Patents and Trademarks.

The Customer Number may be used to identify the correspondence address or "fee address" for, and/or the appointed practitioner(s) in, a United States patent application or patent. The correspondence address and registration numbers indicated on this notice reflect the current correspondence address and registration numbers associated with the above-identified Customer Number.

PRACTITIONER REGISTRATION NUMBER(S) ASSIGNED TO THAT CUSTOMER NUMBER:

26193, 26279, 26907, 26914, 28499, 28543, 28900, 30699 31140, 31633, 32708, 33114, 36654, 42196, 44537, 46022 46412, 53900.

A copy of this notice MUST be returned with the reply.

Patents Electronic Business Center (703) 305-3028

PART 1 - ATTORNEY/APPLICANT COPY

THATELY/FID

JUN 2 8 2005

Biggers & Ohanian, LLP

Patent Lawyers
P.O. Box 1469
Austin, Texas 78767-1469
(512) 472-9881
john@biggerslaw.com

June 23, 2005

Mail Stop: EBC

United States Patent and Trademark Office

P.O. Box 1450

Alexandria, Virginia 22313-1450

Re: Change of Correspondence Address for Customer Number 34533

Dear Sir/Madam:

Please find attached the Request for Customer Number Data Change requesting change of correspondence address for Customer Number 34533.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact us.

With best regards, Biggers & Ohanian, LLP

John Biggers Reg. No. 44,537

JB:cb

Enclosure

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PTO/SB/124A (04-05)

Approved for use through 07/31/2005. OMB 0851-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Request for Customer Number Data Change

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Alexandria, VA 22313-1450

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To the Comm	nissioner for P	atents;									
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Name of Personal Submitting req	uest	John Biggers				Registrat	ion	44,537			
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This collection or information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to fills (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you rectuirs to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Persite and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop EBC, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option.

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